In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-1647

FEDERAL MARITIME COMMISSION, PETITIONER

v.

SEATRAIN LINES, INC., PACIFIC FAR EAST LINES, INC. AND UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES

The United States believes that the court of appeals correctly held that the Federal Maritime Commission does not have power to approve the acquisition of assets of one carrier by another under Section 15 of the Shipping Act. The issue, however, is obviously important in the administration of the antitrust laws and of the Shipping Act, and the court below expressly recognized its decision to be in con-

flict with that of the Ninth Circuit in *Matson Navigation Co.* v. *Federal Maritime Commission*, 405 F. 2d 796 (Pet. App. A, 45-47).

The United States has previously urged the Court to grant the petition of R. J. Reynolds Tobacco Co. for a common law writ of certiorari in *R. J. Reynolds Tobacco Co.* v. *United States and Federal Maritime Commission*, No. 71-157, in order to determine the related question of the Commission's power to approve mergers between carriers under Section 15 of the Shipping Act.[1] In these circumstances the United States does not oppose the granting of a writ of certiorari in this case.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

AUGUST 1972.

---

[1] As stated in the Supplemental Memorandum for the United States filed contemporaneously herewith in No. 71-157, the United States is of the opinion that it would be appropriate to defer consideration of the petition in that proceeding until the instant case is determined.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1972 472743 40